

**AGREEMENT ON THE MODALITIES
FOR THE ESTABLISHMENT OF THE INTERIM DISTRICT
MUNICIPAL PLANNING TRIBUNAL**

Concluded by and amongst:

SEKHUKHUNE DISTRICT MUNICIPALITY

(Council Resolution Number OC25/04/2021)

(Demarcation code: DC47)

(Herein represented by **M.J NTSHUDISANE**, in her capacity as District Municipal Manager of
Sekhukhune District Municipality

AND

MAKHUDUTHAMAGA LOCAL MUNICIPALITY

(Council Resolution Number SC/11.5/02/2021)

(Demarcation Code LIM473)

(Herein represented by **N.M RAMPEDI**, in her capacity as Municipal Manager of
Makhuduthamaga Local Municipality

AND

EPHRAIM MOGALE LOCAL MUNICIPALITY

(Council Resolution Number SC/07/2020)

(Demarcation Code LIM471)

(Herein represented by **H.M PHAAHLA**, in his Capacity as Acting Municipal Manager of
Ephraim Mogale Local Municipality

AND

ELIAS MOTSOLEDI LOCAL MUNICIPALITY

(Council Resolution Number DP20/21-20)

fem

MN

F.M

*B.O
M.M
1
KE
H.W*

(Demarcation Code LIM472)

(Herein represented by **M.M KGWALE**, in his capacity as Municipal Manager of Elias
Motsoaledi Local Municipality

AND

FETAKGOMO GREATER TUBATSE LOCAL MUNICIPALITY

(Council Resolution Number OC/79/2021)

(Demarcation Code LIM476)

(Herein represented by **NW PHALA**, in his capacity as Municipal Manager of Fetakgomo
Tubatse Local Municipality

WHEREAS the Spatial Planning and Land Use Management Act, 16 of 2013 makes provision in section 34(2) for the establishment of a District Municipal Planning Tribunal to determine land development and land use applications;

AND WHEREAS the Parties have undertaken an assessment as contemplated in regulated 2 of the Regulations;

AND WHEREAS the Parties are desirous to conclude an agreement to establish and to extend the establishment of a District Municipal Planning Tribunal to jointly consider and decide the land development and land use application submitted to their respective municipalities;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

The headings of the clauses in this Agreement are for the purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

In this Agreement, unless a contrary intention clearly appears:

1. Words importing
 - 1.1.1 any one gender includes the other gender;
 - 1.1.2 the singular includes the plural and vice versa; and
 - 1.1.3 natural persons include created entities (corporate or non-corporate and vice versa.
2. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a

M.M
NW

P.M
FE
M.S
NW
M.M

substantive clause in the body of the Agreement; notwithstanding that it is only contained in the interpretation clause.

3. When any number of days is prescribed in this Agreement, it shall be reckoned exclusively of the first and inclusively of the last day.

4. The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

1.4.1 "**commencement date**" means the date publication of the notice referred to in clause 4.8 irrespective of the date of signature hereof;

1.4.2 "**notice**" means a written notice;

1.4.3 "**Parties**" means the parties to this Agreement identified herein;

1.4.4 "**the Act**" means the Spatial Planning and Land Use Management Act, 16 of 2013 and the Regulations issued thereunder;

1.4.5 "**the Regulations**" means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015.

2. FUNDING

2.1. Sekhukhune District Municipality shall fund the operational costs relating to the running and administration of the tribunal for a period three (3) years from the date of this agreement.

2.2. Local municipalities shall fund any litigation costs that may arise as a result of adjudication of applications relating to their respective areas of jurisdiction

2.3. There will be no transfer of funds between Municipalities.

2.4. Each Municipality shall be responsible to the extent of consideration and deciding those categories of applications that shall be heard by the District Municipal Planning Tribunal.

2.5. All funding is subject to the approval of the municipal councils of the parties as per IDP/budget processes

3. DURATION

3.1 This Agreement commences on the 01 July 2021 and continue for a period of 3 (three) years or 36 months from the date of the Government Gazette and may be reviewed after agreement by the parties.

3.2 This Agreement shall terminate –

(a) on the date that the term of office of the members of the District Municipal Planning Tribunal expires as referred to in clause 4.7;

(b) when one of the parties terminates the Agreement by giving six months' notice of its intention to withdraw from this Agreement.

HM
JW
K.S
B.O
KE
3
MM
NW

4 ESTABLISHMENT OF THE DISTRICT MUNICIPAL PLANNING TRIBUNAL

4.1 Composition of the District Municipal Planning Tribunal

4.1.1 The District Municipal Planning Tribunal shall consist of at least 15 members made up as follows:

- (a) Two officials in the full-time service of Sekhukhune District Municipality
- (b) One official in the full-time service of Makhuduthamaga Local Municipality
- (c) One official in the full-time service of Ephraim Mogale Local Municipality
- (d) One official in the full-time service of Elias Motsoaledi Local Municipality
- (e) One official in the full-time service of Fetakgomo Tubatse Local Municipality
- (f) One official in the full-time service of Department of Cooperative Governance, Human Settlements and Traditional Affairs (CoGHSTA) with Town Planning qualifications, experience in the field of Town Planning and registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 36 of 2002;
- (g) One official in the full-time service of Office of The Premier Limpopo (OTP) with Town Planning qualifications, experience in the field of Town Planning and registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 36 of 2002;
- (h) two persons registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 36 of 2002;
- (i) two persons registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 46 of 2000;
- (j) two persons registered as a chartered accountant with a recognized voluntary association or registered in terms of Auditing Profession Act; 26 of 2005;
- (k) two persons either admitted as an attorney in terms of the Legal Practice Act no 28 of 2014; and
- (l) an environmental assessment practitioner registered with a voluntary association;
- (m) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.

4.1.2 In addition to the criteria determined in sub clause 4.1.1 the person referred to in paragraphs (c) to (g) must have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

4.1.3 A District Municipal Planning Tribunal may designate at least the following members of the tribunal to hear, consider and decide a matter which comes before it:

- (a) An official from the municipality of which the application falls.
- (b) One person registered as a professional with the South African Council for the Planning Profession Act, 36 of 2002;
- (c) One person registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act; 46 of 2000;

AM

JMN

M.S

NW

B.O
KE

P.M

M.M

- (d) One person registered in chartered accountant with a recognized voluntary association or registered in terms of the Auditing Profession Act, 26 of 2005;
- (e) One person either admitted as an attorney in terms of the Legal Practice Act no 28 of 2014;
- (f) an environmental assessment practitioner registered with a voluntary association ; and
- (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.

4.2 Invitation and nominations to serve on the District Municipal Planning Tribunal

The District Municipality Shall on behalf of the participating municipalities' issue an invitation and a call for nominations for person referred to in clause 4.1.1(a) – (K) to serve on the District Municipal Planning Tribunal in the manner and form provided for in the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015.

4.3 District evaluation panel

4.3.1 The District Municipality and the participating municipalities shall constitute a District evaluation panel from employees in the time service of the Parties to evaluate all nominations received, whether due to an invitation or call for nominations.

4.3.2 The District evaluation panel of the Parties shall evaluate all nominations received and make recommendations to the municipal councils of the Parties including a recommendation with regard to the chairperson and deputy chairperson for the District Municipal planning Tribunal.

4.4 Appointment of members

4.4.1 Each participating municipality shall evaluate and approve the recommendations of the District evaluation panel referred to in clause 4.3.

4.4.2 The District Municipality shall on behalf of the participating municipalities appoint such persons who qualify for appointment as members of the District Municipal Planning Tribunal subject to all the terms and conditions of appointment to and serving on the District Municipal Planning Tribunal referred to in the Act and the Regulations.

4.4.3 The District Municipality shall on behalf of the participating municipalities inform the successful nominees of their appointment to the District Municipal Planning Tribunal and furthermore, successful nominees will be gazetted in the Limpopo Provincial Gazette.

4.5 Officials in the full-time employ of the Parties to serve on District Municipal Planning Tribunal

4.5.1 The Parties shall designate one official each to serve on the District Municipal Planning Tribunal and shall delegate the necessary authority to these officials.

HM

JM

U.O
5
KE
MM NW

4.5.2 The Parties shall review and amend the contracts of service of the officials designated to serve on the District Municipal Planning Tribunal.

4.5.3 Officials in the employ of the state or state entities will not be remunerated whatsoever and will be dealt with in terms of national treasury guidelines governing participation of officials in committees as reviewed from time to time

4.6 Appointment of the chairperson and deputy chairperson

4.6.1 The chairperson and the deputy chairperson of the District Municipal Planning Tribunal shall be appointed by the District Municipal Council in terms of section 36 (4) of the Spatial Planning and Land Use Management Act, 16 of 2013, from the ranks of the officials referred to in clause 4.1.1 (a) to (e)

4.6.2 The term of office of the chairperson and the deputy chairperson shall be for a period of 3 years calculated from the commencement date of this Agreement.

4.7 Term of office

The term of office of members of the District Municipal Planning Tribunal shall be 3 Years calculated from the commencement of this Agreement as per Government Gazette publication and may be reviewed thereafter.

4.8 Publication of notice

When the District Municipal Planning Tribunal is ready to commence operations, the Municipal Managers of the Parties, shall publish the notice referred to in section 37(4) of Act.

5 APPLICATIONS TO BE CONSIDERED AND DECIDED BY THE DISTRICT MUNICIPAL PLANNING TRIBUNAL

5.1 The Parties shall, in accordance with the criteria determined in the Regulations categorise land development and use applications in a corresponding manner or shall adopt the categorization in the draft regulations.

5.2 The Parties shall refer such categories of applications determined by them to the District Municipality Planning Tribunal.

5.3 The District Municipal Planning Tribunal shall exercise and perform the powers, duties and functions of a Municipal Planning Tribunal referred to in the Act, the relevant provincial legislation and the by-laws of the Parties.

6. SEAT OF THE DISTRICT MUNICIPAL PLANNING TRIBUNAL

HM
JMN
M-J
R.O
NW
P.M.⁶
KE
LMM

6.1 The meetings of the District Municipal Planning Tribunal shall be held at the place, time and venue as determined by the chairperson and administrator of the tribunal after having taken into account the practicalities such as site inspections where necessary and also the logistical requirements that are available.

7. SUBMISSION OF APPLICATIONS

7.1 A land development and land use application referred to in clause 5.2 shall be submitted by an applicant to the municipality in whose municipal area the land which the application relates is located, in terms of applicable application procedures and legislations.

7.2 The municipality shall refer the relevant category of application to the District Municipal Planning Tribunal for consideration. The designated municipal official shall lead the application with motivational report before the District Municipal Planning Tribunal.

8. DESIGNATION OF MEMBERS TO CONSIDER AND DETERMINE AN APPLICATION

8.1 On receipt of an application referred to in clause 7.1 and 7.2, the District Municipal Planning Tribunal shall evaluate the application and decide on the knowledge and skill required to consider and determine the application and designate the necessary members to so consider and determine that application, including the presiding officer.

8.2 The District Municipal Planning Tribunal shall nominate no less than three members to consider an application.

9. APPOINTMENT OF TECHNICAL AND OTHER ADVISERS

9.1 The Parties shall establish and maintain-

- (a) a database of public sector technical and other advisers; and
- (b) a database of private sector technical and other advisers.

9.2 The Parties shall before publication of the notice referred to in clause 4.8-

- (a) in writing request the employer of an official or employee referred to in regulation 11(2)(a) to make that official or employee available on an *ad hoc* basis for technical and other support before that official or employee is placed on the database of private sector technical and other advisers; and
- (b) publish an invitation in one newspaper circulating in the municipal areas of the Parties for persons referred to in regulation 11(2) to be registered on the database of private sector technical and other advisers and may determine conditions for incorporation into that database.

HM
JW
W.S
MAM
P.J.M
S.O
RW
KE
KE

- 9.3 The Tribunal shall appoint technical and other advisers to assist the District Municipal Planning Tribunal per application that it has to consider and determine; if necessary.
- 9.4 The Tribunal shall first consider appointing an adviser from the database of public sector technical and other advisers and only if there is no such adviser available or no adviser available with the requisite knowledge and skill, shall the chairperson consider an adviser from the database of adviser of private sector technical and other advisers.
- 9.5 The district municipality is responsible to remunerate that technical or other adviser for services rendered to the District Municipal Planning Tribunal, if that adviser is not a public service official.

10 ASSETS

- 10.1 The District Municipal Planning Tribunal shall not acquire any assets or incur liabilities and shall not employ any staff.
- 10.2 The parties shall jointly provide the necessary assets and designate staff to assist the District Municipal Planning Tribunal and are jointly responsible for other operational requirements of the District Municipal Planning Tribunal.

11. LIAISON BETWEEN THE PARTIES

The Accounting Officers or Municipal Managers shall be the contact person in respect of the tribunal and in terms matters relating to this agreement

12. DISPUTES

- 12.1 Any dispute which arises between the Parties in connection with the interpretation of or giving effect to this Agreement shall be resolved amicably through consultation and negotiation.
- 1.2.2 Should disputes remain unsolved, the provisions of the intergovernmental Relations Framework Act, 13 of 2005 shall apply in the absence of specific dispute resolution measures prescribed by the Act.

13. LIMITATION OF LIABILITY

Notwithstanding anything contained in this Agreement, the Parties' maximum liability shall be limited to –

HM

MW

8-0
M.S. M.M.
J.D. M.W.
K.E.
K.E.

- (a) an act or omission of the authorised official referred to in section 35(2) of the Act and
- (b) the act or omission of a member of the District Municipal Planning Tribunal in the year that the party is responsible for the operational expenses of the District Municipal Planning Tribunal as contemplated in clause 10.2.

14. ENTIRE AGREEMENT

14.1. This Agreement constitutes the entire agreement and supersedes any and all previous agreements regarding this subject matter that may exist between the parties.

14.1. No representations, either verbal or written, made by either party during the tenure of this Agreement shall be of any force or effect unless agreed to by both parties; reduced to writing, and annexed hereto, as an addendum.

15. NO WAIVER

The failure of either party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy consequent upon a breach hereof shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Agreement.

16. NOTICE AND DOMICILIUM

16.1 The parties choose as their *domicilia citandi et executadi* the following addresse:-

Sekhukhune District Municipality

Physical address: 3 Wes Street, Groblersdal, 0470

Postal address: Private Bag X8611, Groblersdal, 0470. Contacts: 013 262 7300

Makhuduthamaga Local Municipality

Physical address: Stand no. 1, Groblersdal Road, Jane Furse, 1085

Postal address: Private Bag X434, Jane Furse, 1085. Contacts: 015 622 8000

Elias Motsoaledi Local Municipality

Physical address: 2 Grobler Avenue, Groblersdal, 0470

Postal address: Box 48, Groblersdal, 0470. Contacts: 013 262 3056

Handwritten notes and signatures in the bottom right corner, including initials like HM, MS, and P.M. with other scribbles.

Ephraim Mogale Local Municipality

Physical address: 13 Ficus street, Marble Hall, 0450

Postal address: Box 111, Marble Hall, 0450, Contacts: 013 261 8400

Fetakgomo Tubatse Local Municipality

Physical address: 1kastania Street, Burgersfort, 1150

Postal address: P.O Box 206, Burgersfort, 1150, Tel: +27 13 231 1000 | Fax: +27 13 231 7467

- 16.2 Either party hereto shall be entitled from time to time by written notice to the other party, to vary its *domicilium* to any other physical address.
- 16.3 Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.
- 16.4 Any notice given by one party to the other "the addressee" which-
 - (a) is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed; until the contrary is proved, to have been received by the addressee at the time of delivery;
 - (b) is posted by prepaid registered post form an address to the addressee at the addressee's *domicilium* for the time being, shall be presumed, until the contrary is proved, to have been received by the addresses on the day after the date of posting;

17. AUTHORITY

The Parties confirm that they have the necessary authorisation to sign this Agreement on behalf of the applicable Party.

18. SIGNATURES

18.1 SEKHUKHUNE DISTRICT MUNICIPALITY

THIS DONE AND SIGNED BY MUNICIPAL MANAGER AT GROBLERSDAL ON THIS 18 DAY OF JUNE 2021.



SIGNATURE (MUNICIPAL MANAGER)

SIGNATURE (WITNESS)

Handwritten notes:
b.o
W.M. M.S
P.M. NW
KE
J.M

18.2 MAKHUDUTHAMAGA LOCAL MUNICIPALITY

THIS DONE AND SIGNED BY MUNICIPAL MANAGER AT Grobblersdal ON 07/07/2021
THIS 07 DAY OF July 2021.

[Signature]

SIGNATURE (MUNICIPAL MANAGER)

[Signature]

SIGNATURE (WITNESS)

18.3 EPHRAIM MOGALE LOCAL MUNICIPALITY

THIS DONE AND SIGNED BY MUNICIPAL MANAGER AT Marble Hall ON
THIS 23rd DAY OF June 2021.

[Signature]

SIGNATURE (MUNICIPAL MANAGER)

[Signature]

SIGNATURE (WITNESS)

18.4 ELIAS MOTSOLEDI LOCAL MUNICIPALITY

THIS DONE AND SIGNED BY MUNICIPAL MANAGER AT Grobblersdal ON
THIS 23 DAY OF June 2021.

[Signature]

SIGNATURE (MUNICIPAL MANAGER)

[Signature]

SIGNATURE (WITNESS)

18.5 FETAKGOMO TUBATSE LOCAL MUNICIPALITY

THIS DONE AND SIGNED BY MUNICIPAL MANAGER AT Burgersfort ON
THIS 21 DAY OF June 2021.

[Signature]

SIGNATURE (MUNICIPAL MANAGER)

[Signature]

SIGNATURE (WITNESS)

Handwritten notes:
D.O
MM M-T
MN
J.D. M.KE
NW